

House Judiciary Committee Amendment #1

Amendment No. 1 to HB2350

**Buck
Signature of Sponsor**

AMEND Senate Bill No. 2412

House Bill No. 2350*

FILED
Date _____
Time _____
Clerk _____
Comm. Amdt. _____

by deleting subdivision (1) from Section 2 and substituting instead the following:

(1) "Improper means" includes theft, bribery, misrepresentation, breach or inducement of a breach of a duty to maintain secrecy or limit use, or espionage through electronic or other means.

AND FURTHER AMEND by deleting subdivision (4) from Section 2 and substituting instead the following:

(4) "Trade secret" means information, without regard to form, including, but not limited to, technical, nontechnical or financial data, a formula, pattern, compilation, program, device, method, technique, process, or plan that:

(A) Derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use, and

(B) Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

AND FURTHER AMEND by deleting subsection (a) from Section 3 and substituting instead the following:

(a) Actual or threatened misappropriation may be enjoined. Upon application to the court an injunction shall be terminated when the trade secret has ceased to exist, but the injunction may be continued for an additional reasonable period of time in appropriate circumstances for reasons including, but not limited to, an elimination of the commercial advantage that otherwise would be derived from the misappropriation, deterrence of willful and

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malicious misappropriation, or where the trade secret ceases to exist due to the fault of the enjoined party or others by improper means.

AND FURTHER AMEND by deleting the first sentence of subsection (a) in Section 4 and substituting instead the following:

In addition to or in lieu of the relief provided by Section 3, a complainant is entitled to recover damages for misappropriation except to the extent that defendant can show a material and prejudicial change of position prior to acquiring knowledge or reason to know of misappropriation and such renders a monetary recovery inequitable.

AND FURTHER AMEND by deleting the last sentence of Section 7 and substituting instead the following:

For the purposes of this section, a continuing misappropriation by any person constitutes a single claim against that person, but this section shall be applied separately to any claim against each other person who receives a trade secret from another person who misappropriated that trade secret.

AND FURTHER AMEND by deleting subdivision (b)(1) in Section 8 and substituting instead the following:

(1) Contractual remedies, whether or not based upon misappropriation of a trade secret; provided, however, a contractual duty to maintain secrecy or limit use of a trade secret shall not be deemed to be void or unenforceable solely for lack of durational or geographical limitation on the duty; or

AND FURTHER AMEND by adding the following new subsection to Section 8:

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(c) In no event shall a written contract be required to maintain an action or recover damages for misappropriation of a trade secret proven under this act.

AND FURTHER AMEND by deleting from Section 9 the word "uniform" and substituting instead the word "consistent".